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OFFICE OF PETITIONS

In re Application of :
McCormick, et al. :
Application No. 09/246,612 :
Filed: February 8, 1999 :
Attorney Docket No. 1400.9801020 :
For: METHOD AND APPARTUS FOR :
PROCESSING CALL SIGNALING :
MESSAGES :

ON PETITION

This is a decision on the petition under 37 CFR 1.47(a), filed August 30, 1999 (certificate of mailing date August 25, 1999).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on February 8, 1999 without an executed oath or declaration. On February 25, 1999, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioners to file an executed declaration, filing fees, and a surcharge for their late filing within two months of the mail date of the Notice.

In response to the Notice, petitioners filed a petition for a four month extension of time and required fee, a declaration signed by 4 of 5 joint inventors, filing fees, the surcharge, the instant Rule 47 petition and required petition fee. The petition explains that the non-signing inventor, David Furshpan, was mailed the application papers and a declaration/power of attorney for his signature on May 28, 1999. On June 23, 1999, Mr. Furshpan said he would return an executed declaration, but still has not done so.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the petition fee, and
- (4) the last known address of the omitted inventor(s).

This petition lacks items (2) and 4) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration does not contain required information for Mr. Furshpan. His residence, post office address and citizenship are missing. As listing each inventor's citizenship in the declaration is a statutory requirement under 35 U.S.C. 115, it cannot be waived.

The signing inventors must execute another declaration that lists the application serial number and filing date, contains the signers' own information, and lists the non-signer's information, including citizenship. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of the non-signing inventors is REQUIRED. See MPEP 409.03(a).

As to item (4), a statement of the last known address of the omitted inventor is missing and is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300 - ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, reading "E. Shirene Willis". The signature is written in a cursive, flowing style.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions